NATHPO
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Timeline of FCC Actions
as of May 3, 2018

WT Docket 17-79 ***Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment***

Mar. 1, 2018:	FCC releases an 80-page draft ***Second Report and Order (FCC-CIRC1803-01)*** that redefines federal undertaking for small cell deployment and drastically alters tribal participation.
Mar. 15, 2018:	Comment period closes on the draft Second Report and Order
Mar. 22, 2018:	FCC adopts the Second Report and Order
Mar. 30, 2018:	FCC releases the Second Report and Order, FCC 18-30
May 3, 2018:	Published in the Federal Register and will go into effect after 60 days (July 2, 2018)

Nov. 22, 2017:	FCC releases draft ***Draft Program Comment for the FCC's Review of Collocations on Certain Towers [Twilight] Constructed without Section 106 Review (FCC-CIRC1712-03)***
Dec. 7, 2017:	Comment period closes on the FCC's draft of Draft
Dec. 14, 2017:	FCC releases via Public Notice Draft Program Comment, FCC 17-165
Jan. 10, 2018:	FCC publishes Draft in the Federal Register
Feb. 9, 2018:	Comment period closes
Feb. 26, 2018:	Reply comment period closes
Today:	Program Comments are issued by and with the Advisory Council on Historic Preservation. As of today, the FCC has not officially sent a request to the ACHP but once they do, the ACHP has 45 days to respond.

Oct. 26, 2017:	FCC releases draft, ***Replacement Utility Poles Report and Order (FCC-CIRC1711-03)***; this action also consolidates historic preservation requirements in a single new rule.
Nov. 9, 2017:	Comment period closes on draft
Nov. 16, 2017:	FCC adopts, after some changes from draft
Nov. 17, 2017:	FCC releases the Order, FCC 17-153
Dec. 14, 2017:	FCC publishes Order in the Federal Register
Jan. 16, 2018:	Effective date for this Order

Mar. 20, 2017:	Docket created via a 55-page Draft ***Notice of Proposed Rulemaking (FCC-CIRC1704-03)***. Docket 15-180 is also referenced.
April 13, 2017:	Comment period closes on draft Notice of Proposed Rulemaking (NPRM)
April 20, 2017:	FCC adopts the NPRM, after some changes from draft
April 21, 2017:	FCC releases NPRM, FCC 17-38
May 10, 2017:	NPRM published in the Federal Register
June 9, 2017:	Comment period closes (30 days after publication in the Federal Register)
July 10, 2017:	Reply period closes (60 days after publication in the Federal Register)

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 431

[CMS–6068–F2]

RIN 0938–AS74

Medicaid/CHIP Program; Medicaid Program and Children's Health Insurance Program (CHIP); Changes to the Medicaid Eligibility Quality Control and Payment Error Rate Measurement Programs in Response to the Affordable Care Act; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Correcting amendment.

SUMMARY: This document corrects a technical error that appeared in the final rule published in the **Federal Register** on July 5, 2017 entitled "Medicaid/CHIP Program; Medicaid Program and Children's Health Insurance Program (CHIP); Changes to the Medicaid Eligibility Quality Control and Payment Error Rate Measurement Programs in Response to the Affordable Care Act" (hereinafter referred to as the "PERM final rule").

DATES: This correction is effective May 3, 2018.

FOR FURTHER INFORMATION CONTACT: Bridgett Rider, (410) 786–2602.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2017–13710 (82 FR 31158), there was a technical error that is identified and corrected in this correcting document. The provision in this correction document is effective as if it had been included in the document published in the **Federal Register** on July 5, 2017. Accordingly, the corrections are applicable beginning August 4, 2017.

II. Summary of Error in Regulation Text

In the regulation text, we inadvertently omitted the removal of § 431.802, which we discussed on page 31161 of the final rule.

III. Waiver of Proposed Rulemaking, 60-Day Comment Period, and Delay in Effective Date

Under 5 U.S.C. 553(b) of the Administrative Procedure Act (APA), the agency is required to publish a notice of the proposed rule in the **Federal Register** before the provisions of a rule take effect. Similarly, section 1871(b)(1) of the Act requires the Secretary to provide for notice of the proposed rule in the **Federal Register** and provide a period of not less than 60 days for public comment. In addition, section 553(d) of the APA, and section 1871(e)(1)(B)(i) of the Act mandate a 30-day delay in effective date after issuance or publication of a rule. Sections 553(b)(B) and 553(d)(3) of the APA provide for exceptions from the notice and comment and delay in effective date APA requirements; in cases in which these exceptions apply, sections 1871(b)(2)(C) and 1871(e)(1)(B)(ii) of the Act provide exceptions from the notice and 60-day comment period and delay in effective date requirements of the Act as well. Section 553(b)(B) of the APA and section 1871(b)(2)(C) of the Act authorize an agency to dispense with normal rulemaking requirements for good cause if the agency makes a finding that the notice and comment process are impracticable, unnecessary, or contrary to the public interest. In addition, both section 553(d)(3) of the APA and section 1871(e)(1)(B)(ii) of the Act allow the agency to avoid the 30-day delay in effective date where such delay is contrary to the public interest and an agency includes a statement of support.

We believe that this correcting document does not constitute a rule that would be subject to the notice and comment or delayed effective date requirements. The document corrects technical errors in the PERM final rule, but does not make substantive changes to the policies that were adopted in the final rule. As a result, this correcting document is intended to ensure that the information in the PERM final rule accurately reflects the policies adopted in that document.

In addition, even if this were a rule to which the notice and comment procedures and delayed effective date requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and comment procedures to incorporate the corrections in this document into the final rule or delaying the effective date would be contrary to the public interest because it is in the public's interest for providers to receive appropriate information in as timely a manner as possible, and to ensure that the PERM final rule accurately reflects our policies. Furthermore, such procedures would be unnecessary, as we are not making substantive changes to our policies, but rather, we are simply implementing correctly the policies that we previously proposed, requested comment on, and subsequently finalized. This correcting document is intended solely to ensure that the PERM final rule accurately reflects these policies. Therefore, we believe we have good cause to waive the notice and comment and effective date requirements.

List of Subjects in 42 CFR Part 431

Grant programs—health, Health facilities, Medicaid, Privacy, Reporting and recordkeeping requirements.

Accordingly, 42 CFR chapter IV is corrected by making the following correcting amendment:

PART 431—STATE ORGANIZATION AND GENERAL ADMINISTRATION

■ 1. The authority citation for part 431 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act, (42 U.S.C. 1302).

§ 431.802 [Removed]

■ 2. Section 431.802 is removed.

Dated: April 26, 2018.

Ann C. Agnew,

Executive Secretary to the Department, Department of Health and Human Services.

[FR Doc. 2018–09347 Filed 5–2–18; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[WT Docket No. 17–79; FCC 18–30]

Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document (Order), the Federal Communications Commission (The Commission or FCC) adopts rules to streamline the wireless infrastructure siting review process to facilitate the deployment of next-generation wireless facilities. As part of the FCC's efforts, the agency consulted with a wide range of communities to determine the appropriate steps needed to enable the rapid and efficient deployment of next-generation wireless networks—or 5G—throughout the United States. The Order focuses on ensuring the Commission's rules properly address the differences between large and small wireless facilities, and clarifies the treatment of small cell deployments. Specifically, the Order: Excludes small wireless facilities deployed on non-Tribal lands from National Historic Preservation Act

(NHPA) and National Environmental Policy Act (NEPA) review, concluding that these facilities are not "undertakings" or "major Federal actions." Small wireless facilities deployments continue to be subject to currently applicable state and local government approval requirements. The Order also clarifies and makes improvements to the process for Tribal participation in section 106 historic preservation reviews for large wireless facilities where NHPA/NEPA review is still required; removes the requirement that applicants file Environmental Assessments solely due to the location of a proposed facility in a floodplain, as long as certain conditions are met; and establishes timeframes for the Commission to act on Environmental Assessments. These actions will reduce regulatory impediments to deploying small cells needed for 5G and help to expand the reach of 5G for faster, more reliable wireless service and other advanced wireless technologies to more Americans.

DATES: Effective July 2, 2018.

FOR FURTHER INFORMATION CONTACT: Aaron Goldschmidt, Competition and Infrastructure Policy Division, Wireless Telecommunications Bureau, (202) 418–7146, email *Aaron.Goldschmidt@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Report and Order (R&O), WT Docket No. 17–79 adopted March 22, 2018 and released March 30, 2018. The full text of this document is available for inspection and copying during business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW, Room CY–A257, Washington, DC 20554. Also, it may be purchased from the Commission's duplicating contractor at Portals II, 445 12th Street SW, Room CY–B402, Washington, DC 20554; the contractor's website, *http://www.bcpiweb.com;* or by calling (800) 378–3160, facsimile (202) 488–5563, or email *FCC@BCPIWEB.com.* Copies of the R&O also may be obtained via the Commission's Electronic Comment Filing System (ECFS) by entering the docket number WT Docket 17–79. Additionally, the complete item is available on the Federal Communications Commission's website at *http://www.fcc.gov.*

I. Excluding Small Wireless Facilities From NHPA and NEPA Review

1. In this Order, the FCC makes a threshold legal determination, and amends § 1.1312 of its rules to clarify, that the deployment of small wireless facilities by non-Federal entities is neither an "undertaking" within the meaning of the National Historic Preservation Act (NHPA) nor a "major Federal action" under the National Environmental Protection Act (NEPA). Although the FCC clarifies in the Order that the deployment of small wireless facilities on non-Tribal lands therefore will not be subject to certain Federal historic preservation and environmental review obligations, the FCC leaves undisturbed its existing requirement that the construction and deployment of larger wireless facilities, including those deployments that are regulated in accordance with the FCC's antenna structure registration (ASR) system or subject to site-by-site licensing, must continue to comply with those environmental and historic preservation review obligations.

2. Section 106 of the NHPA mandates historic preservation review for "undertakings," while NEPA mandates environmental review for "major Federal actions." Courts have treated these two categories as largely coextensive, and have recognized that the question of what constitutes an "undertaking" or a "major Federal action" is an objective inquiry that focuses on the degree of Federal control over a particular deployment. The FCC has previously determined, and the DC Circuit has affirmed, that wireless facility deployments associated with geographic area licenses may constitute "undertakings" in two limited contexts: (1) Where facilities are subject to the FCC's tower registration and approval process pursuant to section 303(q) of the Communications Act because they are over 200 feet or are near airports, and (2) where facilities not otherwise subject to pre-construction authorization are subject to § 1.1312(b) of the FCC's rules and thus must obtain FCC approval of an environmental assessment prior to construction. The FCC has referred to the rule governing this latter category of deployments as the its retention of a "limited approval authority." While the DC Circuit held that the FCC acted within its discretion in classifying these two categories of actions as Federal undertakings, it noted that the FCC had not engaged in extended analysis of the issue and did not foreclose the FCC from revisiting the scope of these categories at a later time.

3. The FCC clarifies, through amendment of its rules, that the deployment of small wireless facilities by non-Federal entities does not constitute an "undertaking" or "major Federal action," and thus does not require Federal historic preservation or environmental review under the NHPA or NEPA. Small wireless facilities that meet its definition here are not subject to ASR requirements under section 303(q) of the Act. Accordingly, the only remaining basis on which they could be considered an "undertaking" or "major Federal action" is if they are subject to the "limited approval authority" under § 1.1312(b) of the FCC's rules. Through this Order, the FCC clarifies that deployments of small wireless facilities do not fall within the scope of § 1.1312(b). Having made that threshold determination, there is no longer any cognizable Federal control over such deployments for purposes of the NHPA or NEPA, and hence, those deployments are neither "undertakings" nor "major Federal actions" subject to those Federal historic preservation or environmental review obligations.

4. The FCC bases this public interest analysis on a variety of considerations. Removing § 1.1312(b)'s trigger of environmental and historic preservation review for small wireless facilities will help further Congress's and the FCC's goals of facilitating the deployment of advanced wireless services (such as 5G) and removing regulatory burdens that unnecessarily raise the cost and slow the deployment of the modern infrastructure used for those services. To be able to meet current and future needs, including deployment of advanced 4G and 5G networks, providers will need to deploy tens of thousands of small wireless facilities across the country over the coming years. It would be impractical and extremely costly to subject each individual small facility deployment to the same requirements that the Commission imposes on macro towers. A report prepared by Accenture Strategy for CTIA found that 29 percent of wireless deployment costs are related to NHPA/NEPA regulations when reviews are required. There is also no legitimate reason why next-generation technology should be subjected to many times the regulatory burdens of its 3G and 4G predecessors.

5. This decision is consistent with the history of § 1.1312. When the FCC adopted that section, its focus was primarily on the deployment of macrocells and the relatively large towers that marked the deployment of prior generations of wireless service for which site-specific preconstruction review was common even in the absence of a Section 319 construction permit. Those macrocells and large towers supported legacy technology and because of their size were more likely to have an appreciable environmental impact. The world of small wireless facility deployment is materially different from the deployment of